

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 15577 of 2007(D)

PETITIONER:

**K.P.ABDUL MAJEED, S/O ABOOBACKER(LATE),
AGED 41 YEARS, KOLLAPARAMBAN HOUSE,
MAMPAD P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

- 1. THE DEPUTY RANGER OF FOREST,
POTHUKAL FOREST STATION,
MALAPPURAM DISTRICT.**
- 2. THE DIVISIONAL FOREST OFFICER(NORTH),
NILAMBUR, MALAPPURAM DISTRICT.**
- 3. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.**

BY SPECIAL G.P.(FOREST) SRI.M.P.PRAKASH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/06/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

S.SIRI JAGAN. J.

W.P.(C) No.15577 of 2007

Dated this the 21st day of June 2007

JUDGMENT

In this writ petition the vehicle belonging to the petitioner were seized on allegations of illegal transport of forest produce. Petitioner seeks interim custody of the vehicles pending further proceedings. The contention of the petitioner is that the vehicle was seized as early as 27-03-2005 and the same is exposed to sun and rain. The contention of the petitioner is that in the last more than two years no proceedings under Section 61 A for confiscation of the vehicle has been initiated and therefore the petitioner may be given interim custody of the vehicle pending further proceedings. The learned Government Pleader stoutly opposes the prayer. According to him the Supreme Court has reported in **Forestor and Another Vs Mansur Ali Khan (2004 (1) SCC 293)** held that though power of the High Court to direct interim release is undisputed but it is to be exercised for good reasons and in exceptional cases only. The learned special Government Pleader will also bring to my attention another decision of the Supreme Court in **State of Jharkhand and Another Vs Govind Sing (2005 (10) SCC 437)** where the Supreme Court held that the vehicle cannot be redeemed by paying levy fine in lieu of confiscation which is also another reason for not giving interim custody of the vehicle and in so far as interim custody of the vehicle is given it would be almost

impossible to recover the same and the Government would be left only with the money deposited by the petitioner.

In answer to the same the counsel for the petitioner rely on the decisions in **Sunderbhai Ambalal Desai Vs State of Gujarat (2002 (10) SCC 283)** and a decision of this Court in **John A.C Vs. Divisional Forest Officer (1997 (2) ILR 200)**upholds the power of the High Court to give interim custody of the vehicle. I am of opinion that in view of the fact that the Supreme Court has upheld that power of the High Court to give interim custody , I need not go deep into the question of law as what I have intend to enquire into these issues whether there is sufficient reasons for granting interim custody.

In this case admittedly the vehicle was seized as early as on 27-3-2005 and for the last more that two years no proceedings have not been initiated. The learned counsel for the petitioner would submit that the notice proposing to confiscate the vehcile itself was issued only on 12-6-2007 after filing the writ petition itself. I am of opinion that nobody would be benefitted neither the exchequer nor the petitioner by keeping the vehicle in the custody for such a long time rotting the vehcile to vagrants of nature . The value of the vehicle will deteriorate day by day. Infact ultimately the Government would be left with next to nothing. If this

position goes on, the vehicle is completely destroyed. Therefore I am of opinion that it is in the interest of the exchequer also in this case to give interim custody of the vehicle to the petitioner. In the above circumstances I dispose of the writ petition with the following directions.

The 2nd respondent shall get the market value of the vehicle assessed by a competent officer of the department and intimate to the petitioner the value so assessed within one week from the date of receipt of a copy of this judgment. On receipt of the said intimation the petitioner shall deposit the said amount with the 2nd respondent as security for due production of the vehicle as and when required. The petitioner shall also produce the proof of ownership of the vehicle on complying with the above conditions. The vehicle shall be released to the petitioner forthwith. This is subject to the further condition that the petitioner shall not alienate so part with the possession of the vehicle till completion of the proceedings under Section 61 A of Kerala Forest Act .

S.SIRI JAGAN,JUDGE

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